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A N E C D O T E S

RELATIVE TO

The Island of JERSEY.

1767.



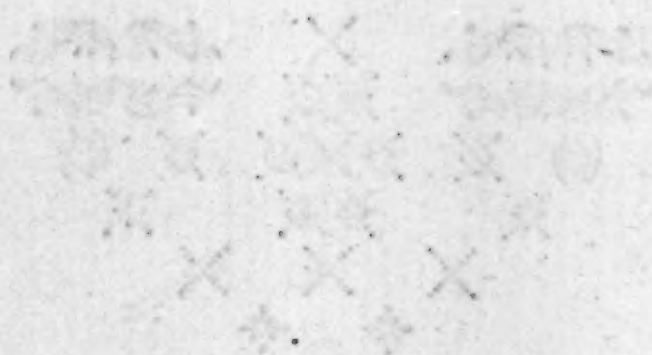
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A N E C D O T E S

RELATIVE TO

The Island of JERSEY.

BEFORE the reign of Henry VII. the government of Jersey, Guernsey, and the other adjacent isles was usually given to one person, who was called Lord Bailly, and Warden of the islands, to which the government of the Isle of Wight was sometimes added; Beauchamp Earl of Warwick, enjoyed the whole under the extraordinary title of King of these islands; Henry VII. separated Jersey from Guernsey and gave them distinct governors, who were called captains, and governors, this last title was confirmed by a special order of council in 1618, and has remained so ever since.

Formerly, the Governor of Jersey had the administration of the civil and military authority, being judge as well as governor, and had the disposal of all religious, civil, and military places, in process of time he reserved only to himself the exercise of the military part transferring the judicial to another who thereby gained possession of the title of bailly, while he retained to himself the disposal of that, and all other offices.

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King John gave the inhabitants what are to this day called his constitutions, they are looked upon as their Magna Charta, being the first regulations established amongst them after their separation from Normandy, and consist of eighteen very short articles; by which twelve jurats chosen for life by a majority of the principal inhabitants were appointed to sit with the governor as a check upon him, for without the consent of a majority of them, he was not to do any judicial act; before this he usually called together some of the principal freeholders thrice in the year to assist him in the administration of justice.

The jurats soon began to improve as much as possible this check to the power of their governor, and struggled hard to become entirely independent of him, but they found this could not be done while he continued to dispose of all employments; they therefore remonstrated to Henry VII. that the steps taken by King John to relieve the inhabitants from the arbitrary power of their governor, would avail them little without the nomination to all civil offices was taken from him, to which his majesty consented, and gave the inhabitants thirty-three articles of ordinances, by which he confirmed those granted by King John, and reserved to himself the nomination of the dean, bailly, viscount, and procureur-general, forbidding the governor and jurats to meddle in any shape in the disposal of these offices, in consequence of which, the clause in the governor's patent permitting him to dispose of them was dropt for some time, but some succeeding governor had it renewed, however, in 1616, when Sir. John Peyton was governor, a dispute between him and the bailly, whose place Sir John, by virtue of the clause in his patent wanted to dispossess him of, occasioned the clause to be again struck out by King James I. who confirmed the ordinances of Henry VII. with the addition, that the place of advocate-general was also withdrawn from the governor, and ever since there has only remained to him the disposal of the livings of the twelve parishes, and appointing officers to the militia.

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The nomination of all civil offices being thus withdrawn from the governor, and the whole authority of public judgements placed in the bailly and twelve jurats, they, with the king's procureur-general, the viscount or sheriff, two under-sheriffs, six solicitors, a clerk and register constitute the court of justice, which is commonly called the Royal Court, and every person belonging to it sworn to a diligent and faithful discharge of his office; the three first of the above officers and the bailly have a power to appoint deputies.

Had not the governor kept possession of being receiver of the whole crown revenues, he soon would have been of little consequence, there also remained with him the power of putting a negative voice upon all resolutions come to by the states of the isle, or the court wherein his majesty's interest, or the general welfare were concerned, until his majesty's pleasure should be known therein; some other powers also remained with him too tedious to mention.

The revenues of the crown were in those days so very valuable, that some of the very first families in England, held this government for several generations in reversion, in 1665 it came in this manner to a younger son of the St. Alban family, who was no military man, the danger the isle was then threatened with, requiring the presence of an able officer; the governor had 1000*l.* paid him yearly out of the exchequer, and another sent in his place to command, who enjoy'd the whole profits of the king's revenues, the collection of which, became now extremely difficult to the governor, which was not the case when he had the whole power; he then made the people pay what and how he pleased, but, as the jurats were become independant of him, they, with the bailly and the two king's officers, protected the inhabitants from all arbitrary proceedings on his part, and so bent was the court to crush his authority entirely, that many of those brought before them for non-payment, though guilty, often escaped punishment; the court

knew that lessening the governor's profits was a sure way to lessen his influence and increase their own weight; besides, the less money he got, the more remained in the isle, for, as the governor seldom resided there, and none of them since the time of James II. all the revenues went to England, a small allowance excepted, given to whoever commanded for his table, and for the salary of the civil officers.

The governor finding the court bent upon annihilating his authority and revenue, in order to put a stop to it, was forced to have recourse to the king in council, the redress there met with, besides being tedious and expensive, he found greatly depended upon the favour of ministers, to avoid which, and all other difficulties as much as possible, instead of employing a person, as had hitherto been practised to collect the revenue, he farmed the whole of it to a man of weight in the island, for a certain sum, clear of all expences whatever, and all governors have followed this method ever since.

The profits accruing to the farmer of the revenue became apparently so great, that instead of disputing with their governor, the leading men began now to quarrel among themselves which of them should have the best share; as the good payment of the revenue depended much upon the interest the farmer had with the court, the struggle about sharing the profits with him was intirely confined to its leading members, the right of pleading all revenue and other king's causes was in the procureur and advocate-general, and the farmer not choosng to be at the expence of seeing both these officers preferred the first of them, but, as their patents were word for word the same, the advocate would not submit to this, but carried the matter before the king in council; the governor taking the part of his farmer, the affair remained long undecided, however, Mr. Charles Lempriere succeeding to the place of king's advocate, he at last, after litigating the matter for almost ten years, and residing the whole time in London obtained a decision, which gave the preference to the king's procureur, but reserved at the same

same time, in many instances, a right of pleading king's causes to the other; Mr. Lempriere had made it appear clearly to the council, that, as the office of king's procureur was now for life, which formerly had been only, *quam diu se bene gesserit*, or *domino rege placuerit*, should the power intended by the constitution of the island to be divided between both, be wholly lodged in the procureur, and he thereby have the sole power of bringing criminals to justice or not, as he thought proper, should he exercise this power in an unjust and arbitrary manner, his majesty's interest would suffer much detriment, and the inhabitants be in the long-run totally undone.

Mr. Lempriere's having shewn so much spirit and perseverance to relieve his country from this oppressive measure gained him the good will of every body, particularly of the late Earl of Granville then bailly of the island, but in this his lordship and the rest were deceived, for it soon plainly appeared, that nothing was further from Mr. Lempriere's intention than the relief of his country, and that his true meaning was, if possible, to procure the whole power and profits to himself; for when Lord Granville appointed him his deputy, or lieutenant-bailly, and he thereby instead of king's advocate, became chief magistrate, the place of advocate was entirely sunk, and to the great detriment of the subject has remained so ever since, and for no other reason but that he about the same time had procured from General Huske (then governor) for his brother Philip Lempriere the farm of the king's revenues, and because he in a little time thereafter, had him also made king's procureur-general, both these offices being incompatible with his own of lieutenant-bailly, by these appointments the whole constitution of the isle has been compleatly unhinged, the power of the governor and the court, which had been kept separate ever since Henry VII. became now blended together, and the offices of governor, bailly, King's-procureur, and king's-advocate centered solely in the two brothers, for from the moment the governor signs the deed, by which he farms the revenue, he divests himself of all authority

while it remains in force, in short, Jersey has been for these fifteen years the most perfect system of tyrannical government that ever existed, nothing withstood the power of the brothers, who were possessed not only of the judicial and executive power, but also of the legislative, against which it will by and by be shown, that it is impossible for the inhabitants to make the least resistance, without certain ruin to whoever attempts it, for, untill Lord Albemarle came to the government, the governor's authority was never perceived by the inhabitants, but when in support of every measure proposed by the farmer of the revenue, and that they might have no assistance from the lieutenant-governor, or any other that commanded in absence of the governor, ways and means were found out by General Huske (when governor) to strip him of every perquisite, even to the usual allowance for his table, all of which was bestowed as the brothers pleased, upon whom he conferred his whole power as governor, without leaving even a shadow of it with the person who represented him in the isle; the officer who commands, may indeed nominate officers, and issue orders to the militia, but, as he has not the power of enforcing obedience to his orders they are without effect: this power the court has usurped, and, as its members pay blind obedience to the will of the brothers, the authority over the militia with every other, centers also in them, which is not to be wondered at, when every lucrative office in the isle is either at their disposal or in their possession, they have been accustomed to nominate to all livings in the church, and even to dispose of the garrison-gunners, and while the lieutenant-governor has but 10s. a day, Mr. Ph. Lempriere has 8s. 6d. for mustering the invalids only twice in the year, the doing of which, before it came to his family never cost but 40l. yearly, he is also paymaster to the ordnance, barrack-master and store-keeper; the last office for a salary of 40l. yearly, is said to be augmented to 100l. for him, he was also during the last war, agent for prisoners, whose treatment was so iniquitous, that Colonel Forrester, who
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at that time commanded in the island, thought it a duty incumbent upon him, to lay the whole of it upon undeniable evidence before the secretary of state, and the commissioners of sick and wounded, in which he was prevented by the chief magistrate and jurats refusing to take the affidavits necessary for that purpose, and for no other reason but to prevent the villainous treatment of the prisoners being proved beyond contradiction, this circumstance is only mentioned to shew the exorbitant power of the brothers and the cypher, that the person entrusted with the safety and defence of the island is reduced to, when this is the case, where is there a possibility for the inhabitants who are injured by them breathing their complaints? It may be said they can apply to the king and council, but who dares do this against the power, and lately great acquired wealth of the brothers; every prudent man would rather submit to be half ruined by them, than be totally so by complaining against them, especially when he is without the assistance of any known and fixed laws for his guide, that the inhabitants are without such the council have long been sensible of, for when the commissioners were sent many years ago to Jersey and Guernsey, they were instructed to procure a copy of the laws by which the jurats judged, in order to its being lodged in the council-office, as a rule for committees in their decisions of all causes that came from thence, the Guernsey jurats complied with this order, but those of Jersey, rather than part with the darling power of having their own will the only law, chose to submit their posterity to whatever might be that of all jurats in time coming; this being the true state of the inhabitants, it easily accounts for the islands having thriven hardly any thing in the 700 years it has belonged to England, for notwithstanding the valuable and most uncommon privilege it enjoys of an exemption from taxes, and that it is perhaps one of the most healthy and pleasant situations that can be wished, no strangers have ever settled there but such as have been forced to abandon their own country, for fear of meeting with
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the punishment their crimes merited, this clearly proves that the government there, though perhaps never so despotic as at present, has yet always been too arbitrary, the natives themselves, who have lived for any time out of the island, are so sensible of this, that if their circumstances will admit of it, they seldom or never return to it, and where the poor only are left, no country can improve; but were the liberty and property of the inhabitants, with their present privileges once secured to them by proper regulations or laws, they would soon become a numerous and flourishing people, and instead of a thorn which in time of war, they are even now in the side of France, they then would become a huge spear, and save England all expences in defending them; in the last war the sale of prizes taken by their privateers, exceeded 160,000/. sterling, it is probable, that the island has never hitherto been attended to in this light, if it had, some steps surely would have been taken towards it, and the inhabitants amounting to the number of 20,000, would not at this day be judged by judges, made as soldiers are, first enlisted for life, and learn their profession afterward; where laws are made with the greatest ability and precision, we find it requires the ablest and most upright men to judge of them; how much more does it require such where there are no rules for them to go by, and where 12 men have arrogated to themselves a power for life, known no where to be lodged in the same persons; brewers and tavern-keepers are the only persons in Jersey excepted from being chosen jurats, and though the right of chusing them is in the principal inhabitants, yet they are deprived of reaping any benefit from it, by the jurats interfering and recommending the man to be chosen, and, as one of them always attends in each parish to collect the votes, no one dares vote but for the person thus recommended, without incurring the highest resentment of the court; to shelter themselves from its despotic power, the inhabitants know of no assylum but getting upon the bench, as a jurat once seated there they are not only in a sure one for life, but can
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from thence revenge themselves upon whoever opposes them, it is this that makes the first gentlemen covet the office, and though there is no salary affixed to it, they serve it with pleasure, for the paultry fees only, and court the leading men to obtain it, who seldom confer this favour, but upon those who are entirely at their devotion, at least, particular care is always taken to have a majority of such upon the bench, by which means as the jurats have arrogated to themselves the power of enacting, and thereby setting aside the authority of the state of the island and the governor's negative voice: the brothers have possessed themselves of the whole power of making and unmaking the laws at their pleasure, and in the same manner do they afterwards judge of them, and carry them into execution, and all with the view of making the most they can, by being concerned in farming the king's revenue, part of which consists in the fine of delinquents, it is therefore something greatly preposterous, that a chief magistrate and procureur-general should reap the benefit of these fines, but, as this is actually the case, fining is the only punishment ever heard of, where money can possibly be squeezed from the delinquents; but the brothers to avoid the preposterous appearance of their being concerned, have got their brother in law who is a jurat, to lend his name as farmer of the revenues, but the subject who finds every nerve of power strained to fleece him, and keep him without redress is thoroughly sensible who the farmers are that receive the profits; it would be the height of folly in the inhabitants who are injured, to seek redress from those who are the authors of the injury, nor can they apply for it to the king in council, until the court have first passed judgment in the cause, which to the subject, is often in effect as bad as a total denial of justice, for, as there is no time limited for the courts passing sentence, they delay doing it at pleasure, and even when they do it they often refuse to record their judgement in the rolls of the court, though positively ordered by the king in council, to do it at all times when required by the parties, by

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which the injured are prevented having a copy of it, to enable them to appeal to the king in council, nor can they prove being thus refused but by affidavits, and these none of the court will in such cases administer; for excepting the affidavits necessary for the exportation of the commodities of the growth and product of the Isle, the jurats take none but in presence of the chief magistrate, and he takes none but in presence of two jurats, by this extraordinary custom he is sure of having no complaint sworn to against him, and they on the other hand are certain of having none sworn to by him against them; thus are the inhabitants when injured by either, debarred of proving it to the council, they may assert it, but when the fact is denied under the hands of the whole bench, what is to be done? that the gentlemen who sit there have not scrupled at times to disguise the truth, but have even asserted falshood to the king in council, can be proved beyond a doubt, of all this the people are so thoroughly sensible, that they hardly or ever seek redress against the magistrates, let their treatment of them be never so barbarous; the only attempt toward it, known to the writer hereof, was made by Mr. Nicholas Fiott, who from his success in trade, had, with the fairest character, acquired some little money, with which he imprudently determined to seek redress against the cruel and oppressive treatment he had received from the brothers, in which, he, as was expected failed, and ever since has been forced to abandon his country; the following is a translation of a petition presented by him to the court on the 18th of February 1764, which will shew how greatly necessary it is become to restore the place of advocate-general to the inhabitants upon its original footing, which was of equal power with the procureur-general:

“ Mr.

“ Mr. NICHOLAS FIOTT humbly remonstrates .

“ That, it is upwards of twenty years since your petitioner appointed Mr. Peter Mauger his solicitor, during which time he has as such been entrusted with the management of all his affairs, particularly of his lawsuits with Mr. Philip Lempriere the king's procureur-general.

“ That, the said Mauger gave his word to your petitioner, that he would not undertake or plead any of the said causes depending between your petitioner and the said procureur-general.

“ That, so far from keeping his promise, the said Mauger did plead the causes against your petitioner, and even offered to plead prescription, when it was by his own advice that your petitioner delay'd bringing the affair to an issue.

“ That, considering the above behaviour of the said Mauger, and for other reasons, your petitioner does not think himself safe in either his public or private concerns, if the said Mauger is permitted to act as deputy to the king's procureur-general, and thereby become the only king's officer in the Royal Court; your petitioner therefore prays, that the matter may be taken into your consideration, and that it be not granted to the said Lempriere to appoint the said Mauger his deputy, until further steps are taken in the affair, and your petitioner as in duty bound shall ever pray.”

The above petition was presented in court before Mauger was sworn into the office of deputy to the procureur-general, and on the very day appointed for doing it, he was notwithstanding immediately appointed, and a copy of the petition given him, and a short day appointed by the court for taking the affair into their consideration, but though it was twice heard, and that the petitioner used every means in his power for almost a year and a half, that he afterwards remained in the isle to have judgement passed upon it, he could not succeed, it was at last done on the 27th of

January 1766, almost two years from the commencement of the affair, and when Mr. Fiott was not in the isle, and though his solicitor was present in court and ready to answer, he was not allowed to speak in favour of his client, but, under pretence of Mr. Fiott's not being there himself, he was cast in 500*l.* sterling as damages to Mauger, and fined in 100 livres according to order besides. This Mauger, though now at the bar was bred a taylor, and is greatly fitting for any purpose of the brothers, that the respectable offices of the king's procureur and advocate-general, should be thus prostrated, is a circumstance too serious not to be attended to, and before the Lempriere's came into power, was never known in Jersey; and should it be permitted to continue it in the long run, must undo the island, while the inhabitants were possessed of both these officers, orders of council and acts passed in the island for the public good, were certain of being carried into execution, but now their being attended to, depends entirely on the procureur or his deputy, the inhabitants are therefore wholly at their mercy, and the procureur being without any person to controul him, his will is become the only law, he has been known to tear in the face of the most solemn assembly of the isle, an act which they had passed for the public security, and for no other reason but because the whole of the fine thereby imposed upon the delinquents, was not appropriated to the king, that is to say, to the farmer of his revenue, but the following facts will serve to throw a clearer light upon the arbitrary proceedings of the two brothers.

The island at no time produces corn sufficient for the maintenance of the inhabitants, the exportation of it is therefore prohibited under severe penalties, all rents, the king's as well as others are paid in wheat, it therefore becomes the interest of every person that has rents to keep up the price of wheat as high as they can; nobody but the court can regulate the price, that it, and all sorts of provisions should be sold for; but as a majority of the court
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have not only rents paid them, but are also farmers, they use every method in their power to keep the price of all kinds of provisions as high as possible, during the late war, when all communication was stopt with France, they succeeded in this to their utmost wish; and as the great sums of money then brought into and expended in the island, enabled the buyers to support the expence, they bore it without repining. Upon the peace, the communication with France being renewed, provisions fell in their price to what it used to be in time of peace; this was too alarming a circumstance not to be attended to by farmers of all denominations, the court immediately of themselves without asking the concurrence, or even consulting with the commander in chief upon the subject, forbid the importation of all kinds of provisions from France, under the most severe penalties, even to an egg or a pound of hogs-lard, nay, even the species which the island did not produce, as well as what it did, were equally prohibited, and as no stop was put to the exportation of provisions, they mounted immediately to a price never known in time of peace, the buyers of all ranks were so astonished at so glaring and unconstitutional an attempt, to rob them of a privilege they had enjoyed from time immemorial, that they openly and bitterly cried out against it; and none more, or who had greater reason than the half-pay officers; in order to silence these gentlemen, or make them quit the island, the jurats who had always taken their affidavits to entitle them to receive their half-pay, now to a man, refused doing it, in this their distress the officers applied to the commander in chief, who, by taking their affidavits, relieved them from it, but they had none as to the price of provisions, which daily increased so much, so that the sack of flour which usually sold for a guinea, was now almost come to two, yet the jurats were deaf to the distress of the people, however, providence interposed in their behalf, by opening the French ports for the exportation of grain of all kinds, as this had never before been permitted in France; the jurats, when they forbid the importation of

provisions from thence, did not guard against the importation of corn, by which lucky circumstance the inhabitants had an ample supply from thence at a most moderate price, the scheme of the jurats being thus frustrated, they resolved to issue another of their arrests against the importation of corn, but their intention coming to the people's knowledge, they got up to prevent its being carried into execution, in which they met with the success they desired; the brothers, in order to obtain complete revenge on the people for having thus opposed their measures, resolved, though contrary to the laws, to rid the island of the whole stock of wheat upon hand, of its own growth, by exporting it to England; they were induced also to this by the very high price it then bore there, it being about the time the opening the English ports was first in agitation; two vessels were accordingly loaded, the example of the brothers was too aluring not to be followed, and had the wind favoured, the whole produce of the island might have been gone in 48 hours, but as it did not, the inhabitants had time to reflect, that, as the supply from France had only been from hand to mouth as they could afford to purchase it, the moment their own stock was gone, they would be without a magazine of any sort, consequently at the mercy of the French for their bread and the price of it, and should the French ports be shut, which was greatly probable, thousands must perish who could not afford to give the English price for their bread; in this situation of matters the commander in chief refused to grant his licence for the exportation of corn, or for the vessels sailing that were loaded with it; and finding that they intended to proceed without it, and that the mob threatened to destroy them, to prevent both, he ordered a guard to mount, and, as the guard-house was in the charge of the constable of the parish; he sent him a written order to deliver it up, which he refused, though by his oath of office he ought to have obeyed it; this his refusal, the commander in chief put into the hands of the king's procureur-general, desiring he would, in his name, demand
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of the court, that the said constable should be dismissed from his office for so flagrant a violation of his oath, and for endeavouring to obstruct the said commander in his duty, sworn to by him when he came to the command of the isle, this the king's-procureur said he would not do, and that, what the constable had done, was by his and the courts direction; exculpating officers from their oaths was a new stretch of power in these gentlemen, however to crown it, and the whole of this most extraordinary proceeding, for fear complaint should be made of it by the commander in chief; the king's-procureur prevailed on the chief magistrate and jurats to affix the seal of the island to an absolute act of the states, passed by them in the last century, in hopes of proving by this deceit, to those who were ignorant of their manner of acting, a most glaring falsehood, viz. that the isle produces corn sufficient for the maintenance of its inhabitants; when, from the port of Southampton alone, without reckoning the biscuit for their shipping, they import upon an average, at least 133 English quarters of wheat per month, all of which is constantly consumed in the isle; though few of them know the exact quantity of grain imported, there is not one but knows, that the island at no time produces what is nearly sufficient for their support; it is for this reason that the farmers of the king's revenues, and indeed every other farmer in Jersey, have, whenever the communication with France is stopt, a far greater price for it than the farmers any where in England, which, in a place totally exempted from taxes, must produce immense profits; it is therefore not to be wondered at, that every step should have been taken by the brothers, who stick at nothing where their interest is concerned to preserve them, and though the commander in chief knew they were conscious that they ought to be complained against, and he was very sensible they justly merited it; yet, as he succeeded in preventing the whole grain of the produce of the isle from being exported, he carried the matter no farther, he knew that complaints, besides being greatly troublesome and disagreeable to those
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who make them, are not less so to whom they are made ; and that they had much better be wholly let alone than made fruitlessly, and not properly attended to, this indeed seldom proves to be the case of those made against military officers by the civil magistrates, but often of those made by the former against the latter, in the first case, if the officer is found in the wrong, he is severely punished ; but, in the latter case, should he prove himself to be greatly in the right, and them egregiously wrong, after his immense trouble and great expence he has nothing farther to expect, his antagonists remain unhurt, and after laughing at him, are ready to serve him or another the same sauce the very first opportunity that suits with their convenience or interest ; that this has been the fate of all officers who have commanded in Jersey is certain, most of them therefore when reduced to the necessity of complaining or neglecting their duty, have rather chose to be removed ; the consequence of which has been, that the oppression of the subject from never having been perhaps properly represented, has not received the least check, and has thereby gained so much ground, as even to greatly alienate the hearts of the people from his majesty so much, so that, upon the commencement of the last war, though the enemy were at their doors and ready to invade them, it was with the greatest difficulty they were prevailed upon to take arms, which were rather forced upon them, and many have been heard to say openly, that it did not much signify to them whose subjects they were, for they could not be more oppressed ; and it was the opinion of many of the most sensible men of the isle that had it not been infused into the minds of the people, that their religion was in danger by their not taking arms to defend it, they never could have been brought to do it ; nay, the first gentlemen themselves, who formerly were so fond of serving in the militia, that in order to obtain that honour, they with pleasure paid fees to the governor or whoever commanded, for their commissions, but now, though they have them gratis, it is with the greatest difficulty they can be prevailed on to accept of any, and

and even when they do, it is with the greatest reluctance any duty is done; their guard mounting round the island during the war was never to be trusted to, such as were sure of the brother's or even a jurat's friendship run no risque of being punished, therefore went to guard or not as their fancy lead them; and, as all neglects of duty, &c. in the militia are punished solely by fines being imposed on the delinquents, and, as this fine goes entirely into the pockets of whoever farms the king's revenue, the brothers have got it enacted by the jurats, that no fine can be under ten Jersey livres, which are equal to fifteen French, this brings them in annually a pretty round sum, and was, during the last war, carried to such an extravagant height, that in another, it will be found a more difficult task than ever, to get the people to take arms; besides, the method in itself is visibly greatly erroneous, if not wholly preposterous, by way of keeping up a proper discipline in the militia; and, as the defence of the island depends entirely upon them, and the very few regular troops usually sent there in time of war, it becomes highly important, that another should be established that would give them all reasonable encouragement, and, at the same time, draw all possible assistance from them.

The writer of this went there to command in 1761, by particular commission from his Majesty, having had no instructions given him before he left England, and among all the papers left him by his predecessors, having found none of the least use to him in knowing the state of affairs in the isle, he was under the necessity of remaining for some time ignorant of them, and being a stranger to every inhabitant, he naturally concluded none were more proper to be depended upon for advice than the lieutenant-bailly and his brother the king's-procureur, he therefore put himself into their hands, but at the same time lost no opportunity of making himself master of the constitution of the isle, both as to its civil and military state; and carefully examined its charters, privileges, and records; he was soon convinced that the inhabitants

were in the situation he has here described, and that it was high time for him to quit his conductors; the moment he attempted this, and began to act by himself, he met with every possible obstruction from them, and that it was not him alone they had thus served, but also his immediate predecessors; colonels dean, burges, and forrester, whose situation they had made so very troublesome and irksome, that they applied to be removed which was granted them; while commanders in chief remain ignorant, they are greatly acceptable, but whenever they continue in the command so long as to become knowing, they must be got rid of, this scheme having never failed, the brothers constantly adopt it, however, the writer of this having made himself master of the powers lodged in him by the constitution of the island, he firmly resolved to keep strictly to them, and the more so as by a due exercise of them, he flattered himself that a door might thereby be opened for the relief of the subject, without troubling others or himself with complaints; he was the more encouraged to this as Lord Albemarle, contrary to the practice of almost all his lordship's predecessors, gave him every possible assistance and encouragement.

The court having with every other power usurped that of registering ships, though contrary to act of parliament; the commander in chief enforced the act, and agreeable thereto, registered the ships himself, and took the affidavits necessary for that purpose, also swore the masters of ships for their Mediterranean passes, his beginning to take affidavits alarmed the brothers, who immediately saw, that if any other but the court (who were their creatures) exercised that power, a door would be opened to the inhabitants for proving their sufferings in an easy and unexpensive manner, and an end at once put to all arbitrary proceedings; he afterwards took the affidavits of the half-pay officers as already mentioned, and the following instance will shew how soon the inhabitants made use of the relief thus opened to them:

Mr. De Gruchy, merchant, of London, purchased an estate in the isle, but, before the deed of sale is valid, it must be recorded in

in the rolls of the court, he, for this purpose, appointed some gentlemen of Jersey his attornies, who presented the deed in the usual form to the lieutenant-bailly, at a time fixed by him for recording deeds of this sort, but he refused doing it then, and postponed it to another time, and then to a second, he at last signified to them, that the judgement of the jurats must be had before the deed could be registered, and that application must be made to them by the attornies for that purpose, which, though very unusual, they complied with, and the matter was heard in full court, and judgement given against recording the deed, upon which, they, through their council at the bar, demanded, that agreeable to the repeated orders of the king and council, the sentence of the court might be recorded, which was refused them; they afterwards made several applications to the chief magistrate for to have some act of his or the court's, setting forth their reasons for not recording the deed of sale, that the attornies might thereby be enabled to prove to their constituent, they had done their part, but this, after a perseverance of six months, could not be obtained by them, upon which, they, in open court, prayed, that they might be sworn to the truth of what had passed which was also denied them; as their last recourse they applied to the commander in chief, to take their affidavits, which he did, he also took the affidavit of Mr. Ph. Laurens, merchant, setting forth, that the court refused to record a sentence pronounced against him; as these affidavits pointed directly at the unlawful proceedings of the brothers, the commander in chief was sensible every step would be taken by them to shut the door thus opened in favour of the subject; and as he was coming to England, he thought it right to keep the affidavits until he had shewn them to lord Albermarle, and upon his lordship's approving of them, he parted with them to *Valere quantum potuerunt*, upon their strength, Messrs. De Gruchy and Laurens petitioned the king in council; and the court at Jersey were ordered to return answers, in the answer to De Gruchy's petition, it is said, that they did not refuse to ratify the deed of sale, but only postponed doing it, the

evidences all positively swear to an absolute refusal to record it; had the chief magistrate and the king's procureur-general complied with the laws which they have sworn to obey, and recorded the sentence passed by the court, this difference could not have happened, and is of itself sufficient, without mentioning any other reason, to shew the great necessity there is for the orders of council, obliging the court to record all their sentences being strictly complied with, deviating from it must be always with an evil intention, and to sink or stifle the judgement passed by the court, which, whenever it is not recorded, leaves no way of proving what it was but by affidavits; and if they cannot be taken, the party is wholly without redress, and at the mercy of the court whenever they think proper to suspend orders of council, or act in their respects contrary to the laws, it therefore becomes a most essential point for them to prevent, if possible, the taking of affidavits by any persons but themselves, and it is with this view, that in their answers to the petitions of De Gruchy and Laurens, instead of vindicating themselves for not having recorded the sentence passed against these gentlemen, they take not the least notice of that part of the complaint against them, but strongly insist, that the commander in chief has no power to take an affidavit, that none, not even the governors themselves ever did it, that his having done it is a contempt of the laws and subversive of the civil jurisdiction.

Here is an attempt under the hands of the whole jurats (according to custom) to disguise the truth, and thereby if possible, impose on the king in council, for they all know, that the very commander in chief here in question, has often sworn the judge-delegate as chief magistrate into office.

Whatever the governor's powers are, they must, in his absence, devolve upon the person entrusted by his majesty, with the good government and defence of the isle, this they know is an invariable rule, and constantly submitted to.

They also know that this very person takes the very same oath administered to the governor upon his admission into office, in which,
amongst

amongst many other things, he swears not only to observe the laws himself, but also that he will, with his whole power and judgment make all others obey them.

The chief magistrate, king's-procureur general, and the whole jurats dare not deny that orders of council are laws, when these laws are suspended or disobeyed by them, how is a commander in chief in compliance with the oath he has taken to enforce their obedience? no way but by proving to the king in council their having been guilty of disobedience, and how is it possible for him to do this without he can take the requisite affidavits, when the court refused to take colonel Forrester's affidavit, necessary to prove the inhuman treatment of the French prisoners as already mentioned, he complained of their refusal, instead of his complaints being attended to, he was laughed at for not having taken them himself.

The jurats know, or at least ought to know, that by the constitution of King John, and the charter of Henry VII. the court is forbid to judge in matters *nimis arduis*, such as treason, that being reserved to the governor, who is thereby impowered to arrest any inhabitant whatever that is guilty of it, or incurs a vehement suspicion of being guilty, and he is further impowered to secure the effects of all such persons, provided he calls two jurats to assist him; how is a governor or commander in chief to do this, without he is impowered to administer an affidavit.

It is acknowledged that by the charter of Henry VII. the governor is forbid to act in the capacity of a judge, in administering justice to the people, which he until then had done, but the court are called upon to shew by any one charter or order of council, that he has ever been forbid to take an affidavit, if he had, some other person would have been authorised to do it, but, as there is not, it is ridiculous to suppose that it cannot be done but by assembling the royal court of justice from all the different quarters of the island for that purpose.

Their

Their saying that no governor or commander in chief before the writer hereof ever administered an oath is asserting a falshood, for they must know, that his predeceffors always have sworn the judge delegate into office, if they have seldom made use of that authority upon other occasions, it must be owing to the chief magistrates and procureurs-general before the present, having never reduced them to the trouble of doing it, at least, it is more than probable this must be the true reason of governors, or whoever represented them, not making a practice of taking affidavits; it is difficult to comprehend what laws their doing it, is a contempt of, or how that power's being lodged in them, can any how be subversive of the civil jurisdiction, or at least affect a court of justice, the Jersey court is perhaps the only court that ever wished, much less insisted that the sole power of administering an oath should be confined to themselves, it would at least have had the appearance of uprightness, had they signified their approbation of a person of such rank and character as their governor being entrusted with that authority, his exercising it can never be attended with the least detriment to either public or private interest, their endeavouring to prevent it can arise from no good motive; it is the matter of fact sworn to that affects people, and not the act of administering an oath, if the facts are true, truth never can be subversive of any upright civil jurisdiction, if they are false, the perjury can easily be proved, and the person guilty of such enormous crime, can certainly be brought to condign punishment, without overturning the civil jurisdiction, but should a lieutenant-bailly, a chief magistrate, a king's-procureur general, or any others trample upon the laws they have sworn to obey, it is very easy to comprehend, that this conduct must be a total subversion of the civil jurisdiction, and a most egregious contempt of the laws; that such persons should endeavour to prevent affidavits being taken by any but themselves is not in the least to be wondered at, as its being done must be a total subversion of them and their jurisdiction, from this and no other motive
can

can the present opposition to the governor's taking affidavits when refused to be administered by the jurats be accounted for.

The following are Extracts of Ordinances and Orders of Council.

“ All matters which shall pass before the said jurats, shall be registered and subscribed by the jurats, before whom they have been passed and judged to remain as a record and remembrance, in order that all parties may have recourse thereunto whenever it shall be thought requisite, and in case any of the said
 Ordinances
 Henry VII. jurats shall hereafter be found guilty of not having discharged well and loyally the duty of his office, he shall be dismissed and expelled from the same, and never afterward received into it or any other office in the isle, but shall for ever afterwards be accounted and looked upon as a perjured and infamous person; and that whatsoever resolutions the court shall come to during the course of such new trial, they do enter them up by way of order, if desired or insisted upon by either party, so as to appear
 Order of Council,
 March 26, 1729. upon the acts of court, and that this be a general standing order, to be observed, not only in this cause, but in all causes for the future, and the bailliffs and jurats of his majesty's Royal Court of Jersey, and all others, whom it may concern, are to pay a strict regard to his majesty's pleasure hereby signified, and not presume in any case whatsoever to deviate therefrom.

The governor at his first admission into his office sheweth his commission to the bailiff and jurats, the said commission
 Henry VII.
 An. R. 10. is ordered to be registered, and then the governor is sworn, and taketh immediately possession of the governor's place and seat in the Royal Court.

The governor is to keep and guard faithfully for his majesty, the said island, castles and forts thereunto belonging, and
 Henry VII.
 An. R. 10. to maintain the king's jurisdictions, authorities, prerogatives, rights and revenues.

Copy

Copy of an oath taken by the governor, or whoever commands
in his absence.

Puis qu'il a plu a dieu vous appeller, a la charge de gouverneur des chateaux et isle de Jersey, vous jurez & promettez icy en la presence de dieu, que fidelement vous exercerez la ditte charge, sous nostre souverain Sire Geo. III. par la grace de Dieu Roy de la Grande Bretagne, France & Irlande, & des dominions, qui en dependent; renonçant a toutes autres superioritez foraines & estrangeres & garderez ses droits, vous assisterez & defenderez toutes juridictions, privileges, préeminences et autorités appartenantes a sa ditte majesté & avec tout vostre sens & pouvoir, garderez & ferez garder la ditte isle & chateaux contre les incursions et surprises des ennemis comme aussy toutes libertées, droits, dignitez, lois, coûtumes & privileges, de la ditte isle & chateaux avec le bien public & avancement d'icelle, Item, vous prêterez vostre force a la justice de sa majesté a ce qu'elle soit reverée & obeïe, & ses sentences & ordonnances dûement executées, vous opposant a tous traîtres, larrons, meurtriers, batteurs, mutins & seditieux, a ce que la force demeure au roy; vous le promettez a l'acquit de vostre conscience.

The following extract from the records of the island proves, that one of the very last governors who resided there, administered an oath, not only to the chief magistrate and juratts, but even to the clergy and constables.

“ Moi Sire Jean Peyton Chevallier, capitaine, garde & gouverneur des chateaux et isle de Jersey, sômes & requiers de vous par le nom saint & redoutable de l'eternel que vous Messrs. le bailly, jurets, ministres & conestables de paroisses de cette isle icy congregés reconnoissés & avoës franchement icy & devant dieu, Jacques a present roy d'Angleterre d'Ecosse France et Irlande deffenseur de la foy estre vostre seul roy & prince souverain sous dieu en toutes causes tant ecclesiastiques que temporelles jurant & promettant de luy estre & a ses nobles heirs & successeurs fidele & obeissant sùjets tant en temps de paix que de guerre de procurer & maintenir le droit de sa couronne, L'honneur profit & tranquillité de ses royaumes sans donner consentement a chose qui y contreviennent vous reglant & gouvernant selon les loix & coûtumes par luy confirmez en cette isle chacun en l'execution de sa charge tans en l'administration civile que ecclesiastique accordant a la parole de dieu, abjurant & renonçans a toutes superiorités foraines & estrangeres tant pour l'egard civile que ecclesiastique sans jamais y adherer en tout n'y en partie; ce que vous jurez & promettez solemnellement devant dieu sur vos ames, corps, & consciences, dieu vous en fasse a tous la grace.

AINSY, Signé par copie des Rolles.

J E A N P I P O N, Greffier.

ERRATA. Page 1, line 5, after other, add *adjacent*.—Page 3, Line 4, after general, add, *king's advocate-general*.—Page 4, for right, read *weight*.



